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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,074	09/11/2003	Koichi Nakata	03554/LH	6177

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NEW YORK, NY 10017-2023

EXAMINER

PERKEY, WILLIAM B

ART UNIT	PAPER NUMBER
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2851

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/660,074

Applicant(s)

NAKATA ET AL.

Examiner

William B. Perkey

Art Unit

2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 20-33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-19 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20030911.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 9 and 20-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 033004.

### *Claim Objections*

2. Claims 2 and 4 are objected to because of the following informalities: It appears the word "portion" found on page 89 line 9 and line 27 should be - - portions - -. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In independent claim 1 the last paragraph, an exposure control determining section is recited which determines exposure control based on results of the subject field state judgment section (last line). However, no subject field state judgment section is found among the claimed elements of claim 1. Thus, claims 1-8 are vague and indefinite because the claim does not set forth what the subject field state judgment section is or what kind of a result it generates.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakahara (U.S. Patent No. 6,195,509 B1).

Nakahara discloses a sensor array as element 51 in Fig. 3; a computing section is described in column 11 lines 26-43; an average photometric sensor is disclosed as IC 50; an average luminance computing section is described in column 10 lines 44-46 calculating a mean brightness value Bvd; a subject state judgment section is represented by the step S66 in Fig. 9 and describe at column 10 lines 42-52; an exposure control determining section is disclosed at steps S11-S13 in Fig. 6; and a subject field state judgment section is represented by the step S64 in Fig. 9.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakahara (U.S. Patent No. 6,195,509 B1) in view of Official Notice (MPEP 2144.03).

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Nakahara shows the claimed invention, as explained above, except for activating the strobe light only when its light output can reach the subject and a mode discriminating section which controls the exposure control determining section. Official Notice is taken that it was well known in the field of photography at the time of applicants invention to prohibit the emission of the strobe unit when the subject is beyond the strobe unit reaching distance and to provide user selection of flash modes such as the non-emission mode, the forced emission mode, and the automatic determination of flash use. It would have been obvious to one of ordinary skill in the art at the time of applicants invention to provide the photography system of Nakahara with other conventional camera system features such as prohibiting the emission of the strobe unit if the subject is beyond its range in order to obtain the desirable feature of conserving the battery power and to provide for conventional flash modes such as the non-emission mode, forced emission mode, and automatic determination emission in order to obtain the desirable feature of a versatile photographic system.

***Allowable Subject Matter***

9. Claims 10-19 are allowed. The primary reason for allowance of claims 10-19 is the claim 10 limitation for an exposure control determining section that determines exposure control based on average luminance value and the results of the determinations at the subject state judgment section and the subject field state judgment section.

**Telephone Numbers**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William B. Perkey whose telephone number is (571) 272-2126. The examiner can normally be reached on Monday-Thursday 7:00am-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on (571) 272-2112. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William B. Perkey  
Primary Examiner  
Art Unit 2851

WBP:wbp